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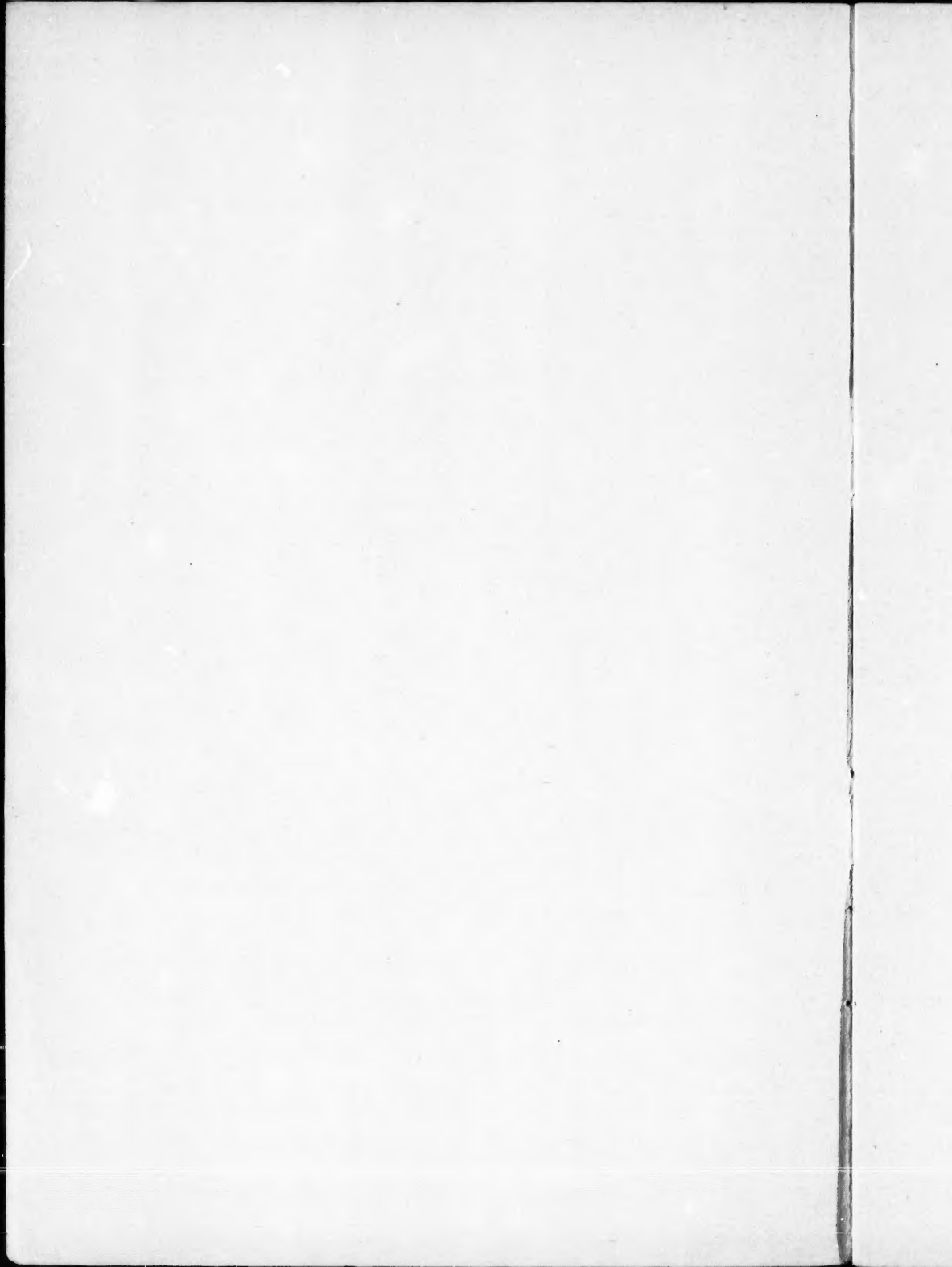
How to Treat The Criminal Classes.

By Lyman Abbott, D.D.

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How to Treat the Criminal Classes.

BY LYMAN ABBOTT, D.D.

There are in every community avowed and open enemies of the social order, men who disregard it and are endeavouring to break it down and to destroy it. They are what we call the criminal class. Some of these criminals drift into crime ; some of them perpetrate occasional crime ; some are educated for crime ; some consecrate themselves to crime as their profession, as men consecrate themselves to medicine, law, or theology. And they are a very considerable class. It is estimated that in the United States, if you take all the criminals and all the people who are dependent upon the criminals, something like one in every seventy belongs to the criminal class. And this criminal class has been, on the whole, increasing throughout Christendom. In Great Britain apparently not, though the statistics do not fully agree ; but in Spain it is said to have doubled within ten years ; in France to have increased several hundred per cent. within the last quarter of a century ; and in the United States to have increased one-third faster than the population since the Civil War.

These are very serious facts. What are we to do with these enemies of the social order ? How shall we treat them ?

*A sermon preached at Plymouth Church, Brooklyn. Reported stenographically, and revised by the author for the *Outlook*.

Society has very often given two answers to this question. It has sometimes said, Get rid of them. The simplest way to get rid of them is to kill them. Until a very recent period that was the method ordinarily pursued. In Great Britain, under Henry VIII, two hundred and sixty-three crimes were punished with death; and even as late as the close of the last century, two hundred crimes were so punished. It is estimated that in the reign of Henry VIII, 72,000 persons were hung in Great Britain. And it is even said by some authorities in penology that one reason why the criminal class is not increasing in Great Britain is that the progenitors and ancestors were killed off by that remorseless process in past centuries.

But we are now too humane to continue that process. We no longer kill them. But we banish them. We send them to Botany Bay. I have seen it seriously proposed to organize a penal colony in Alaska. Why? To get rid of them. France sends them to a chain-gang. We send them to the prison and shut them up and forget them. A boy steals an apple from an orchard; steals a lot of apples; he keeps on stealing apples. What shall we do with him? We bring him before a magistrate and send him to a gaol and lock the door on him and forget about him. Do you know what a gaol is? I read a description of an American gaol from General Brinkerhoff, of Ohio, who is an authority on penology:

"To establish a school of crime requires (1) teachers skilled in the theory and practice of crime; (2) pupils with inclination, opportunity, and leisure to learn; (3) a place of meeting together. All these requirements are provided and paid for by the public, in the creation, organization, and equipment of county gaols and city prisons. With less than half a dozen exceptions, all the gaols and city prisons in the United States are schools of this kind, and it is difficult to conceive how a more efficient system for the education of criminals could be devised. . . . Every observant gaoler knows with what devilish skill

the professors of this school ply their vocation. Hour after hour they beguile the weariness of enforced confinement with marvellous tales of successful crime, and the methods by which escape has been accomplished. If attention fails, games of chance, interspersed with obscene jokes and ribald songs serve to amuse and while away the time. In this way the usual atmosphere of a gaol is made so foul that the stamina of a saint is scarce strong enough to resist. Let a prisoner attempt to be decent, and to resist the contaminating influences brought to bear upon him, especially in a large gaol, and he will find that, so far as personal comfort is concerned, he might as well be in a den of wild beasts."

That is what comes of the attempt to solve the penal problem by simply locking the criminal up and forgetting him.

The other remedy—it seems worse, but I am inclined to think it is in some respects better—is to hate the criminal and hurt him; and, lest you should think what I say to you is rather strong language, I will read from an authority on this subject. I read from Sir James Stephen's "History of Criminal Law":

"I think it highly desirable that criminals should be hated, that the punishment inflicted upon them should be so contrived as to give expression to that hatred, and to justify it so far as the public provision of means for expressing and gratifying a natural healthy sentiment can justify and encourage it."

This man has done society a wrong; he is a wicked man, so we must hate him. We must give expression to that hate by hurting him. We will put him in the pillory, and fling stones or rotten eggs at him; we will tie him to the whipping-post and beat him; we will send him to the prison and make it as uncomfortable as we can for him. In one form or another we will give expression to the hatred of the man who has done society a wrong. That plan has been tried, and on a large scale. It went along concurrently with the plan of getting rid of the criminals by killing them. Men imagine that the Inquisition in the Middle Ages expressed the rancour

and bitterness of the Church. They are mistaken. The cruelty was not of the Inquisition, it was of the Middle Ages ; and the same cruelty which was expressed in punishment of heresy was expressed in punishment of all other crimes. The Church simply said, Heresy is a crime. Then society said, You are to hate the criminal and you are to hurt him as much as you can ; and this is the way in which society carried out this principle of Sir James Stephen :

"The wheel, the caldron of boiling oil, burning alive, burying alive, flaying alive, tearing apart with wild horses, were the ordinary expedients by which the criminal jurists sought to deter crime, by frightful examples which would make a profound impression on a not over-sensitive population. An Anglo-Saxon law punishes a female slave convicted of theft by making eighty other female slaves each bring three pieces of wood and burn her to death, while each contributes a fine besides.

"In France women were customarily burned or buried alive for simple felonies. The criminal code of Charles V., issued in 1530, is a hideous catalogue of blinding, mutilation, tearing with hot pincers, burning alive, and breaking on the wheel. . . . In England to cut out a man's tongue or to pluck out his eyes, with malice prepense, was not made a felony until the fifteenth century, in a criminal law so severe that, even in the reign of Elizabeth, the robbing of a hawk's nest was similarly a felony ; and as recently as 1833 a child of nine was sentenced to be hanged for breaking a patched pane of glass and stealing twopence-worth of paint."

There is no danger of a revival of that kind of torture ; certainly not. But when Sir James Stephen says we are to hate the criminal and to give expression to that hate, that is not written in 1542, that is modern, and it is the expression of the same philosophy which finds its expression in these horrible cruelties of the Middle Ages. The theory is this : Man is endowed with an instinct of vindictive justice ; and he is to gratify that vindictive justice. When a man has done a wrong and caused a suffering, he ought to suffer a wrong, and we ought to inflict it. The function of society is to exercise

that vindictive or retributive justice. That is the claim. And in doing this it will deter men from perpetrating crime. The man who has suffered the penalty will not do the wrong again. He will say, It does not pay. And the man who looks on and sees the penalty inflicted, he will not do a like wrong, he will say, It will not pay. And thus society will protect itself from crime. This is the theory. Vindictive justice is the motive; protection of society the end; and the deterrent power of fear the means.

I believe that the whole system that is built up on those three foundation-stones is wrong from foundation-stone to topmost pinnacle. It cannot be reformed. It should be eradicated. It is wrong in every part of it. It is true there is an instinct of retributive justice in man; and he is to consider what is the end for which it is given him, and that end, not the gratification of his blind instinct, is to determine the punishment.

And as the satisfaction of the sentiment of revenge is not to be the motive, so the protection of society is not to be the aim. Society is not to be satisfied always to say, There are 700,000 criminals in the United States: how shall we guard ourselves against them? It is not to corral them and put a fence around them. It is not to secure society from the thief, the robber, the assassin. The protection of society is not the end. It is something higher, it is something better. And the deterrent power of fear is not the means. It has been tried, and it has failed. Men are not deterred from crime by fear. We have broken men on the wheel; have boiled them alive; have hung them. We have done it in public. We have gathered the criminal class around the gallows to see the execution and be deterred by the crime, and the man to be

hung has made his speech and "died game," and the men who gathered to see the execution have gone back to plunge deeper in crime than they did before. Severe penalty instigates, duplicates, multiplies crime. It does not prevent.

I want to make my meaning as to this just as clear as I can. I deny that we have any right to administer justice, if by justice is meant the giving to every wrong deed its proper and just equivalent in penalty. That is not our function. God has not authorized us to do it. He has not given to one man a right to determine what is the legitimate and proper penalty to fall upon a fellow-sinner for the wrong he has done. On the contrary, He says we are not, and He says so clearly and explicitly. Judge not, He says. And by that He does not mean, do not judge unfairly, do not judge inequitably; He means, Judge not. It is not our business to administer justice

Hate the criminal and express your hatred, says Sir James Stephen; he is the enemy of society. Christ says, Love him, and by love cure him. What Christ says, Paul says, possibly even more explicitly: Recompense to no man evil for evil. What does that mean? Repay to no man the evil for the evil he has done you. Repaying evil to a man because he has done evil against you, this is retributive justice, and Paul says You are not to do it; when a man has done an evil, you are not to measure what amount of evil is to be given back to him. "Dearly beloved, avenge not yourselves, but rather give place unto wrath: for it is written, Vengeance is Mine; I will repay, saith the Lord." That word "vengeance" is literally "execute justice." That is what the Greek word means. "Dearly beloved, execute not justice; I will execute justice that belongs to Me, saith the Lord."

We are neither to get rid of the criminal, nor are we to execute justice on the criminal. Our sole, single business in life is to work out redemption. We have not the right and we have not the capacity to execute justice. "Prisoner at the bar, stand up. You are accused of stealing a pair of shoes; you are found guilty; I will determine what is the right and just penalty to give to you because you stole that pair of shoes." Mr. Judge, are you prepared to do that? Do you know who that man's father and mother were? Do you know what his ancestry was? Do you know what temptations surrounded him? Do you know what early influences surrounded him? Do you know even whether you or he is the worse sinner?

And as we have neither the right nor the capacity, so we have not the power. That is the way we administer justice when we try to adjust the penalty to the wrong-doing. Two men—this is not a fanciful case—two men committed a burglary. One of them was an old offender. He had persuaded the other man to join with him. They were arrested. The younger man was ashamed of himself; was sick of the whole business; wanted to plead guilty, take his punishment, pay his debt, and begin life over again. He went before a severe judge and received a sentence of twenty years' imprisonment. The old offender knew of that judge's severity, got a shrewd lawyer, had his case put off, got himself brought before a good natured judge, and received three years' imprisonment. Go before some judges for sentence before dinner and you will get one kind of a sentence; go after dinner and you will get another kind of a sentence. After all, judges are very much like the rest of us. I am not condemning judges; I am condemning the whole attempt on the part of mankind to determine how penalty should be adjusted to the wrong-doing.

Christ tells us we are not to undertake to administer justice—that is to say, this wrong-doing deserves this amount of penalty: now visit it on the criminal. What then? We are to administer redemption. And from the beginning to the end of our criminal system, from the letter A to the letter Z, from the very starting-point to its final consummation, there is to be one object, and only one object—namely, the reformation of the offender. It is not to be the satisfaction of retributive justice, it is not to be the protection of society; it is to be, simply, solely, singly, the reformation of the wrong-doer, and the reformation of the class to which the wrong-doer belongs.

In the first place, its root is not to be hatred of the criminal, it is to be love and pity for the criminal. Philosophers all discriminate between sin and crime. There is a distinction. What is it? Sin is any violation of God's law. Crime is any violation of man's law. Some crimes are not sins. It was a crime to give a glass of water to a fugitive slave in 1850, but it was not a sin. Now, how does God treat men when they violate His law? He comes to earth; He identifies Himself with them; He bears their stripes in His own person; He suffers the penalty of their wrong-doing, and by His own life and sufferings here on the earth He endeavors to reclaim them. And then He turns to them and says, Even as Jesus Christ forgave you, so also do you.

Do not misunderstand me; do not think I am arguing for sensationalism; do not think I approve of sending flowers and cakes to prisoners. It is said that when a man is in prison for murdering his wife, he is almost sure to have offers of marriage received from women, in case he gets out. That is not the kind of pity I am speaking for. It is not sentiment.

It is the sense in one's self. Here is a horrible calamity that has come upon this man : how can we help him to a new and better life? Christ treats sin as disease, and He comes to cure the disease. We shall not start our criminal system aright until we get wholly rid of this notion that we are to hate the criminal and hurt him, and come back to the fundamental Christian notion that we are to love and pity and redeem and cure the criminal. That is to be the starting-point. Love is to be the motive, the inspiration. And, that being the inspiration, everything is to be attuned and set to that.

In the first place, to give some specifications, imprisonment ought not to be the first penalty. In Massachusetts they are trying what they call a probation system. It is working, apparently, very well. When any child is arrested, he is not first sent to a prison. The State official whose function it is to be the guardian of such children, is called into requisition. He is told to examine the case. He brings his report to the judge. If it will do, the boy is sent back to his home, and then the guardian is to keep an eye on him. If he has not any home, or any adequate home, the guardian finds a home for him. If there is not any home that can be found for him, the guardian puts him into an institution. The institution is the third and last resort. Whether the method is right or wise is not the question—the spirit is admirable. What Massachusetts is doing for children it is also beginning to do for men—for there are some men that are twenty-one who are children in will-power, and even in intellect. The great majority of criminals are weak.

When a man is sentenced, the sentence should be adjusted with reference, not to the crime he has committed, but wholly

to the cure to be accomplished. Not that this ideal could be instantly reached, but that this ideal is to be kept constantly in view. I confess I am amazed at our patient folly. We arrest a man in New York for drunkenness; we send him up to the Island for ten days; he stays there just long enough to get sober, and then he is discharged. He comes back to New York; in twenty-four hours he is arrested again for drunkenness and sent to the Island again for ten days. There are men in New York who spend two-thirds of the time on the Island. We are paying Police Justices in New York for that operation. What we ought to do is this: When the man is arrested for his first drunkenness, his friends should be found, if he has any; when he is arrested for the second or the third or the fourth, patience should be exercised; but when the right time comes, he should be put into an institution, the object of which is to cure men of inebriacy, and if he cannot be cured, he should stay there the rest of his life. You say, Would you imprison a man for life for getting drunk? No! I would not; but I would keep him in an institution for life rather than let him come out to prey upon the community by his drunkenness.

The sentence should be adjusted wholly with reference to the remedy. Men will say, Can you be sure the man is cured? No! we cannot. Will you not have some men discharged as cured who will come out and prey on society? Certainly. We cannot do anything perfectly in this life. We cannot adjust the penalty adequately to the crime committed. But under the one system over fifty per cent. come back and prey upon society again, and under the other system less than twenty per cent.

When the man is in the prison, all the discipline of the

prison should be conducted with simple reference to reformation. It is a disgrace to our nineteenth-century civilization that boys should be sent to such a gaol as that General Brinkerhoff describes. It is done every day in this State of New York. When the man is arrested, separate confinement should be the beginning ; he should be put by himself and studied there by himself for the first month, or six months, or, as in England, nine months, before he should be allowed to mingle with his fellows. The mingling then should be under such authority as to prevent the increasing and stimulating of crime. There should be schools in the prison for the purpose of teaching this man how to earn a livelihood by honest industry when he comes out. There should be an industrial system—not to make money, but to make men. We have gotten rid of the contract system in this State. Formerly we took prisoners, put them in State prison, sold their labour to a contractor, and told him to see how much he could get out of the prisoners. And the man who went in hating industry came out hating industry worse than ever. Industry should be organized for the purpose of making the man industrious, not for the purpose of making the prison self-supporting.

The plan which I have hinted at underlies what is known as the Elmira Reformatory system ; it underlies the probation system of Massachusetts ; it underlies the separate confinement. Group these all together, and out of them construct the ideal system for the moment. A man is arrested ; he is brought before the court. Inquiry is made into his life, his character, his surroundings, his friends. If it is found that he has some friends who will be responsible for him, who will take care of him, who will see that this thing does not occur again, he is put under the tutelage of these friends. If it is

found that he has no such friends, or that no such trust can be reposed in them, or that his criminality is too firmly fixed, he is sent to a prison, put into a separate cell, compelled to reflect. His industry is carried on in his cell; he is kept separate from the other prisoners; is not allowed to come out into fellowship until he has proved some degree of submission to authority, some degree of readiness for reform. Then he is put into a school and into a workshop; but the work is organized to secure development, not to secure money for the State or the prison; and the school is organized for the moral culture as well as the intellectual culture of this man. His record is kept. There are three grades in the prison. He begins at the lowest; if he falls back he is put back into cellular confinement; if he goes forward he is put into the second grade; if he still improves, he is put into the third. A court sits in the prison to determine the length of his imprisonment; and when he has proved that he is able to earn an honest livelihood and is determined to earn an honest livelihood, then some employment is found outside where he can earn an honest livelihood, and he is set free.

I want you to notice two things: one, that, though this redemptive system is not yet perfected, it protects society better than the punitive system. When a man is killed, it is true he will not trouble society any more, but when he is reformed he will not trouble society any more; and experience demonstrates that the way to reform those that lie outside the circle is to reform the men that lie within it. And the second thing I want you to notice is this: An English writer criticises the Elmira Reformatory. He says, Perhaps it does discharge eighty per cent. cured, but what is its effect on the criminal population outside? It does not deter them.

He is mistaken. One of the Judges of the Criminal Courts of New York tells me that criminals plead not to be sent to Elmira under the indeterminate sentence. The criminal would rather take ten years in Sing Sing than a chance of getting out of the Elmira Reformatory in five years. For the one thing a determined criminal does not want is to be put under influences that are all the time saying to him, You shall be honest ; the one thing he hates is to be reformed.

Redemption and retribution are, so far as this world is concerned, different spellings of the same word ; and the best and most effective deterrent is a penalty which holds the grip of law on the wrong-doer until he becomes a right-doer. Christ's method of dealing with the enemies of society is to treat them as diseased men ; to pity them, not to hate them ; and to administer for them a system of redemption, not to attempt the impossible task of administering a system of retributive justice.